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OLC 75-0402

23 January 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting of the Director with Chairman William S. Moorhead (D., Pa.) and other members of the House Government Operations Committee regarding Privacy Act of 1974

1. Accompanied the Director in an informal meeting held in the Majority Lounge of the House Government Operations Committee. The meeting lasted approximately two hours.

2. Present from the Committee were:

William S. Moorhead (D., Pa.), Chairman
Bella S. Abzug (D., N.Y.)
Paul N. McCloskey, Jr. (R., Calif.)
Charles Thone (R., Neb.)
David W. Evans (D., Ind.)

3. Present from the Subcommittee staff were:

William G. Phillips, Staff Director
Norman G. Cornish, Deputy Staff Director
James L. Kronfeld, Staff Counsel

4. Representative Moorhead said he called the meeting to consider the Agency's exemption in the Privacy Act passed in the last Congress, in view of the recent allegations in the press that the Agency had conducted massive domestic surveillance against U.S. citizens. Mr. Moorhead stated that when the Members considered the bill with the staff, they had no indication that the Agency had conducted such activities. Mr. Moorhead felt that the Members were concerned and that is why he had asked the Director to explain the allegations. Mr. Moorhead emphasized that the meeting was informal and stated that his subcommittee has been abolished and has been succeeded by the newly established Government Information and Privacy Subcommittee, chaired by Representative Abzug which will oversee the Privacy Act. Mr. Moorhead stressed that he recognized the

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sensitivity of the Agency's basic mission and he did not wish in any way to unduly limit its activities overseas. He felt strongly, however, that the Agency's activities in the U.S. must be clearly defined; otherwise we would have a police state.

5. Mr. Kronfeld stated that in his discussions with representatives of the Agency during the legislative processing of the Privacy Act, he was never made aware that the Agency had engaged in domestic surveillance as had been alleged. I was the principal Agency representative with Kronfeld and can confirm that no such comments were made; however, the staff was advised that the Agency did collect information on U.S. citizens in a foreign intelligence context.

6. The Director immediately set the record straight concerning the allegations that the Agency had engaged in massive domestic surveillance in the United States. He substantially provided the facts as set forth in his statement before the Senate Appropriations Committee and provided a copy to Mr. Moorhead. He further explained the manner and circumstances under which the Agency does collect information on U.S. citizens in connection with its foreign intelligence activities abroad. The Director made it clear that under certain circumstances contacts by any U.S. citizen, including members of Congress, with foreign embassies could very well be reported within our foreign intelligence collection system. The information, however, would merely be noted. He stressed that under no circumstances has any member of Congress ever been surveilled in any manner by the Agency. The Director also described past activities such as maintaining lists of individuals of possible threat to the Agency and the accumulation of news clippings which served no useful purpose. He assured the group that these practices have been terminated. At one point the Director stated that the Agency does conduct name checks on individuals for possible contact or use and they are not witting of this fact, to which Chairman Moorhead expressed surprise. The Director, as an example, stated that the development of the entire U-2 program with Lockheed was conducted with only a few employees and top management knowing that CIA was involved or that there was any U.S. Government interest.

7. In response to the Director's explanation of our past involvement of the foreign aspects of dissident groups, Mrs. Abzug expressed strong objection to the Agency's activities against what she identified as "peace groups." Several times she used the theme of the Seymour Hersh article that the Agency had conducted surveillance against 10,000 U.S. citizens. She continually reiterated that our involvement was illegal and an invasion of the privacy of these individuals and did not

accept the Director's position that our actions were a proper exercise of our foreign intelligence responsibilities and pursuant to Directives. Mrs. Abzug did not accept the assurances of terminated practices and felt that as far as she was concerned there exist thousands of names compiled by the Agency illegally, and she urged that because of this misuse of our authority the Agency's exemption in the Privacy Act should be struck. The Director stressed that if our Agency exemption is struck, the exemption of classification provided in the Act will not protect the Agency since not all intelligence sources and methods in need of protection meet the definition of "national defense or foreign policy." He stressed that if the Agency exemption is struck, an exemption for intelligence sources and methods would be required. Note: Attached is proposed language which Representative John N. Erlenborn (R., Ill.) had as a fallback position when Mrs. Abzug tried unsuccessfully to strike the Agency exemption during House floor debate. The need for this protection was emphasized to Mrs. Abzug when she proposed that the 10,000 individuals, whose names she claimed were allegedly compiled by the Agency illegally, should be permitted access to their files. The Director emphasized that this information cannot be made available since it could reveal and jeopardize the Agency's sources involved. He took the position that, if anything, all of these files should be destroyed.

8. The Director pointed out that the investigations into the allegations and all aspects of the Agency by the Senate Select Committee and before Chairman Lucien N. Nedzi (D., Mich.), House Armed Services Committee Special Subcommittee on Intelligence, should result in a clear definition of the Agency's responsibilities and mission, both domestically and abroad. He stated that the extent and disposition of our file holdings will undoubtedly also be determined. He acknowledged the vagueness of our charter and that it requires clarification and further that the Agency itself has recommended certain changes. The Director expressed his certainty that after this thorough review clearer jurisdictional lines will emerge. He stressed that with this fresh view and his publicly expressed positive position to terminate any activities considered beyond our charter, the Agency will start anew on solid footing.

9. Mr. Thone expressed strong support for the Agency and support for the Agency's full exemption. The position of the other members regarding the Abzug proposal to strike the Agency's exemption was not clear. Mr. Evans is a new Member of Congress. He arrived late and made no comment. Mr. McCloskey did express strong support

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of the Director's need to protect intelligence sources and methods, and noted his concern that former Agency employees could publish books and articles such as Marchetti's revealing what he thought to be highly sensitive intelligence information, and yet the Agency's hands seem to be tied. The Director later in the meeting confirmed this and made reference to the Agee book in which he noted that Agee had attached an appendix listing the names of all of his former Agency associates and his foreign contacts, and that he, Mr. Colby, "couldn't do a damn thing about it."

10. My reaction was that other than Mrs. Abzug and Mr. Evans the Members present appeared to have a better understanding of the Agency's responsibilities and the circumstances under which the Agency collects information on U.S. citizens. Mr. Moorhead stressed that he will no longer be involved and the whole question of the Agency's exemption will be left with Representative Abzug as Chairperson of the new subcommittee. He expressed his personal certainty that a satisfactory solution can be worked out as concerns the Agency's exemption.

11. At the end of the meeting, Mr. McCloskey stated the subcommittee has a strong interest in the Nedzi hearings to be held on the Agency in view of the Privacy Act. He suggested that Mrs. Abzug contact Chairman Nedzi to request that Members of the Abzug subcommittee and members of the staff sit in on the hearings.

STATINTL

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Assistant Legislative Counsel

Attachment

Distribution:

Original - Subject ✓
1 - DCI (w/att)
1 - OLC Chrono (w/att)

OLC:PLC:fmc (distributed copy to DCI on 3 March 1975--no other internal copies distributed)

Add as a new subsection (l) in section 3 of the bill, and reletter existing subsections (l) and (m) in section 3 as subsections (m) and (n), respectively:

"(l) INTELLIGENCE SOURCES AND METHODS. --The provisions of this Act with the exception of subsections (b), (e)(2)(A) through (F), and (i), shall not apply to foreign intelligence information systems or to systems of personal information involving intelligence sources and methods designated for protection from unauthorized disclosure pursuant to 50 U.S.C.A. 403."

--OR--

Strike existing (j)(1) and substitute the following:

"(l) foreign intelligence information or personal information involving intelligence sources and methods designated for protection from unauthorized disclosure pursuant to 50 U.S.C.A. 403."